

# **EXHIBIT M**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. ) Case No.  
 ) 18 Civ. 8175 (ER)  
BARRY C. HONIG, ROBERT LADD, ELLIOT )  
MAZA, BRIAN KELLER, JOHN H. FORD, )  
GRQ CONSULTANTS, INC., and HS )  
CONTRARIAN INVESTMENTS, LLC, )  
 )  
Defendants. )  
\_\_\_\_\_ )

VOLUME 1

VIDEOTAPED DEPOSITION OF ROBERT LADD

VIA VIDEOCONFERENCE

Thursday, October 15, 2020

REPORTED BY:

GRACE CHUNG, CSR No. 6246, RMR, CRR, CLR  
VICTORIA L. VALINE, CSR 3036, RMR, CRR  
JOB NO. 201015GCH

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Videotaped deposition of ROBERT LADD,  
taken on behalf of Plaintiff, all parties appearing  
remotely via Webex, beginning at 10:07 a.m. EST and  
ending at 6:36 p.m. EST, on Thursday, October 15, 2020,  
before GRACE CHUNG, CSR No. 6246, RMR, CRR, CLR, and  
VICTORIA VALINE, CSR No. 3036, RMR, CRR.

A P P E A R A N C E S

(All appearances via videoconference.)

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SECURITIES AND EXCHANGE COMMISSION

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BY: ADAM FORD, ESQ.

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aford@fordobrien.com

Also Present: NANCY HOLMSTOCK, Videographer

1 Q. And how did you first meet him?

2 A. I was introduced through a guy, Adam  
3 Selkin. And maybe it's a good time to just refine  
4 my description of Mr. Honig, which I know I  
5 previously called "the scumbag." In my vernacular,  
6 "scumbag" means a greedy, pushy, arrogant, stupid,  
7 little, you know, man. So that's my definition of  
8 what a scumbag is.

9 Q. Thank you. So when did you first meet  
10 Mr. Honig through Mr. Selkin?

11 A. I believe it was in 2010 or about then.

12 Q. And when you met him, had you ever heard  
13 of him before?

14 A. I don't remember if I did or not.

15 Q. What did you know about his reputation?

16 A. I didn't know much about his reputation,  
17 but he's a fast talker. And, obviously, you know,  
18 my radar is up always. And in particular, I didn't  
19 need a reputation to know that this is a guy you  
20 need everything in writing with.

21 Q. And in addition to calling him a scumbag,  
22 did you also consider him to be a predatory lender?

23 A. He is the least, at least in our dealings  
24 with him, the least predatory of the predatory  
25 lenders. Most predatory are the ones that the SEC

1 Q. And is it your testimony that you said  
2 those words in your proffer session on March 28,  
3 2018?

4 A. It's going to be a long day. So can you  
5 read back the question you asked me regarding this?

6 Q. I think I --

7 A. I believe you asked me -- I answered  
8 a question that said, Did you refer to or call  
9 Barry Honig a predatory lender? My answer was that  
10 wasn't normally my description of him. If you ask  
11 me, did I consider him one of the group of  
12 predatory lenders, my answer would be yes,  
13 consistent with what I told the FBI. That's why  
14 I'd like a chance to rehear your question and  
15 answer it. There is no refreshing needed. It's  
16 just a matter of semantics.

17 Q. Okay. Understood. Thank you.

18 Can you tell us who John Setson is?

19 A. John is an investor and works -- worked  
20 with Barry Honig, also in Boca.

21 Q. And do you understand -- do you have an  
22 understanding of what his relationship is to a  
23 company called HS Contrarian?

24 A. As I sit here now, yes.

25 Q. What is that?

1           A.    Well, the allegations -- I don't know if  
2           it's true. The allegations are that he was merely  
3           using his perceived ownership of that as a way to  
4           disguise monies that Barry Honig actually  
5           controlled.

6           Q.    Thank you. So unless I instruct you  
7           otherwise, what I'm interested is your knowledge,  
8           not what you've read, not allegations. So I think  
9           the question was framed as, do you understand  
10          Mr. Setson to have a connection or an association  
11          with HS Contrarian?

12          A.    And I do have that connection as we are  
13          speaking today?

14               MR. FORD: Rob, the question is whether  
15          you personally know, not what you read, but whether  
16          you have independent personal knowledge of that  
17          fact.

18          A.    Okay. So what I know for facts are that  
19          anytime HS invested in any deal, it was represented  
20          to me that this was the investment vehicle of John  
21          Setson, and any monies that were wired came from a  
22          similarly named account.

23          BY MS. BROWN:

24          Q.    Thank you. And do you have an  
25          understanding of what Mr. Setson's connection is,

1 if any, to a company called Oban, O-B-A-N?

2 A. I don't. That's a name that I only saw  
3 post complaint. I have no idea who or what it is.

4 Q. And I think you said that you understood  
5 that Mr. Setson worked with Barry Honig. What was  
6 your understanding of the relationship between  
7 Mr. Setson and Mr. Honig aside from their work  
8 relationship, if any?

9 A. As far as I know, they were just  
10 professional workers together. I didn't know of  
11 any personal relationship.

12 Q. Did you have an understanding of whether  
13 they worked out of the same office?

14 A. Yes.

15 Q. And did you have an understanding that  
16 they frequently coinvested?

17 A. Yes.

18 Q. How about Mr. John O'Rourke? Do you know  
19 who he is?

20 A. Yes.

21 Q. Who is he?

22 A. He's the, quote, other John that works for  
23 Honig. I still get them mixed up to this day, but  
24 it was always John and John that I think. He was a  
25 tall guy, and Barry is very short, so -- and I



1 think Setson was the short guy.

2 Q. So the two Johns you are referring to are  
3 John Setson and John O'Rourke; is that correct?

4 A. Correct.

5 Q. And what was your understanding, if you  
6 had one, about John O'Rourke's relationship to a  
7 company called ATG Capital?

8 A. I believe that was his investment vehicle  
9 that he used to make investments.

10 Q. And did you have any understanding of the  
11 relationship between O'Rourke and Honig other than  
12 Mr. O'Rourke apparently worked for Mr. Honig?

13 A. Not at all.

14 Q. Did you have an understanding of whether  
15 Mr. O'Rourke and Mr. Honig, and I guess also  
16 Mr. Setson, worked out of the same office?

17 A. Yes.

18 Q. And did you have an understanding that all  
19 three of those individuals frequently coinvested?

20 A. Yes.

21 Q. And do you know a man named Mike Brauser?

22 A. Yes. Now, just to amplify my prior  
23 answer, my knowledge came from the fact that they  
24 coinvested in MGT. I don't want to say that I  
25 looked at every investment they did to say that

1       they invested together. I'm aware that they  
2       invested together in our instance.

3               (Reporter interruption for clarification  
4               of the record.)

5               A.    "Instance." Stupid word.

6       BY MS. BROWN:

7               Q.    Who is Mr. Brauser?

8               A.    So Mr. Brauser, I don't believe I've ever  
9       met. He was also a coinvestor with Honig, but  
10      otherwise I don't really know him. I know he filed  
11      on our stock, a 13D or G. But I mean --

12              Q.    You don't have -- sorry.

13              A.    No, but I don't think -- like, I can't  
14      even put a picture of that guy in my head, you  
15      know, where O'Rourke and Setson, I can kind of  
16      know.

17              Q.    Did you have any understanding whether  
18      Mr. Brauser had invested, coinvested alongside  
19      Mr. Honig in connection with other transactions  
20      besides MGT?

21              A.    Not directly, no.

22              Q.    Okay. How about indirectly?

23              A.    I can't say, sitting here now. I believe  
24      there were some short stories written about  
25      Brauser/Honig as coinvestors, but I also believe

1       they did different -- different investments  
2       separately. That's all I really know.

3               MR. FORD: Rob, just to be clear, the  
4       timing of the articles that you just referenced?

5               THE WITNESS: Yes. They would be sometime  
6       in the mid to 10s, like 2014 or whatever, I mean,  
7       2015, in that area.

8       BY MS. BROWN:

9               Q. Now, what about Mr. Groussman, Mark  
10       Groussman? Do you know who he is?

11              A. I do. And, again, I hate to stereotype.  
12       I believe he's the big goon. I think I had dinner  
13       with him. And the truth is, until all my further  
14       recollection on everything, the way I confused the  
15       two Johns, I also couldn't picture -- I didn't know  
16       who Brauser or Groussman were separately, but I  
17       knew they were two different people, two different  
18       entities. They had different names of their  
19       entities, different sources of capital, different  
20       motivations, et cetera.

21              Q. And are you aware of his association, if  
22       any, with a company called Melechdavid?

23              A. I believe that's his investment vehicle  
24       also. I mean, similar to the ones you mentioned  
25       before with those, ATG or something.

1 I just want you to be appreciative that it was  
2 an extremely complex calculation and form to fill out  
3 for a -- and again, I'm not going to say to redesign,  
4 but in essence, the information that it needed to convey  
5 was conveyed, and at the end of the day, that's really  
6 what I care about.

7 Q. So the next line reads that on May 25, 2016,  
8 157,300 shares were sold, and the footnote says that  
9 they were sold by Laddcap Value, correct?

10 A. Yes. That's what it says.

11 Q. Okay. Let's look at tab 19, which we've  
12 marked as Ladd Exhibit 19.

13 (Deposition Exhibit 19 marked.)

14 Q. And this is, just for the record, a document  
15 we received from E-Trade which purports to reflect  
16 trading activity in the Robert Ladd account during the  
17 month of May 2016.

18 Do you recognize Ladd Exhibit 19?

19 A. Yes.

20 Q. All right. So you can feel free to flip  
21 through this, but you'll see that 147 -- the Bates  
22 number 147, there are no trades in MGT stock on  
23 May 25th.

24 A. That's correct.

25 Q. Okay. And those shares weren't sold out of

1 your TD Ameritrade account, were they?

2 A. I believe the dates were incorrect on the  
3 form 4.

4 Q. Well --

5 A. The dates did not conform with the actual  
6 trades at E-Trade, and yes that's an error. But as I  
7 said, by the time the form got filed, there was no  
8 desire or need, frankly, to show the end result being  
9 different than it is.

10 Q. Okay. Understood.

11 But in answering my question, those shares  
12 weren't sold out of TD Ameritrade, right?

13 If they were sold, they were sold on a  
14 different day out of the E-Trade account; is that right?

15 A. That's my strong assumption right now, yes.

16 Q. Well, again, you reviewed this form and you  
17 signed it, did you not?

18 A. Yes, I did. But as I explained before it's  
19 not as simple as it looks. Believe me, it's complicated  
20 with this pecuniary interest and all that.

21 So I was more focused on the actual economics.  
22 I look at the bottom number, is that right that the  
23 market knows I own that? I'm basically out of all my  
24 shares except for 540,000 now that I own directly.  
25 That's what the message --

1 A. Yes.

2 Q. All right. And is it your understanding that  
3 it accurately reflects the activity in your account --

4 A. Yes.

5 Q. -- in that period?

6 A. Yes.

7 Q. Thank you.

8 All right. So if we go to TDA Bates  
9 number 419.

10 A. Okay.

11 Q. Under "Trades Pending Settlement --"

12 A. Mmmm-hmmm.

13 Q. -- you see some trades on 5/31/2016, all sales  
14 in MGT Capital, correct?

15 A. Yes.

16 Q. And that shows 11,000 shares sold on that  
17 date; is that correct?

18 A. Um -- yep. Yes, it does.

19 Q. Not 33,000?

20 A. It shows 11,000 shares sold on that date.

21 Q. Is there any other account from which you  
22 would have sold MGT stock on May 31?

23 A. No. As I testified before, my thought would  
24 be that would be part of the shares that were sold in  
25 the crazy period of May. And again, my state of mind

1 was to only get or mainly get the bottom line correct.

2 Q. So it's your testimony the remainder of the  
3 shares, the difference between 33,000 and 11,000, is it  
4 was at least made up of some of the trades that you made  
5 in your E-Trade account in May 2016?

6 A. That's my suspicion right now. I can't  
7 confirm that, but it makes sense that that would be the  
8 answer.

9 Q. And is it your understanding that you only  
10 sold 23,000 shares in May 2016 from your E-Trade  
11 account?

12 A. On May 31?

13 Q. At any time.

14 A. Oh, in the --

15 MR. FORD: The original question was all  
16 through May.

17 THE WITNESS: I know I don't --

18 MR. FORD: How much -- I know that was the  
19 first question.

20 THE WITNESS: Well, can we go back to the May  
21 statement. How many shares were left on May 31st?

22 BY MS. BROWN:

23 Q. Zero. But feel free to look. Exhibit 19.

24 A. All right. So that would mean whatever it  
25 shows, if my math is right, there were 700,000 shares

1 their request.

2 All right. So did you have any discussions  
3 with anyone about this letter and that response in  
4 particular?

5 A. Not that I recall. I believe the cover page  
6 says I sent it to Holmes to review, maybe not.

7 Q. By the way, did Mr. Onghai ask you whether the  
8 trading window was open before he made his sales of MGT  
9 stock on May 18th?

10 A. I don't believe so.

11 Q. Had he ever done that before, called you up  
12 and asked you whether the trading window was open?

13 A. Well, again, he's also a Wall Street -- quite  
14 a veteran as me, so he knows if and when he could sell,  
15 without asking me. I mean, he's on the board of  
16 directors. If he knew something, he would know.

17 Q. Right. Okay.

18 So my question was: Did he ever do that?

19 A. Ever do what?

20 Q. Call you up and ask you whether the trading  
21 window was open?

22 A. I -- I don't remember -- I don't remember him  
23 selling much stuff, frankly, but...

24 Q. Did you file a form 5 at the end of 2016 to  
25 disclose the full extent of your 2016 trading?



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VIDEOTAPED DEPOSITION OF

ROBERT LADD

VIA REMOTE VIDEOCONFERENCE

FRIDAY, OCTOBER 16, 2020

Stenographically Reported by:  
Victoria L. Valine, CSR, RMR, CRR, RSA  
California CSR License No. 3036  
Job No. 201016VV

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17 --o0o--  
18  
19  
20

21 Videographer: Sarah Howard  
22

23 (All parties appeared remotely via videoconference.)  
24  
25

1 THE WITNESS: No. I think she asked me what  
2 the outstanding balance is. So --

3 MS. BROWN: Right.

4 MR. FORD: Nancy, not the monthly payment?

5 THE WITNESS: Right. So what I was trying to  
6 say is that these loans are generally restricted to  
7 about 30,000 each, so I would say 90,000 potentially.  
8 The reason the payments are so high is because they have  
9 amortizations of only three years.

10 BY MS. BROWN:

11 Q. Okay. So you can put that aside.

12 All right. So now we're going to move to the  
13 next binder. Do you have that?

14 A. I think we have to open that now.

15 MR. FORD: Nancy, do you want me to open the box?

16 MS. BROWN: If you would, please.

17 I'm not sure you guys are aware we're not  
18 going to be coming back to binder number 1 frequently,  
19 but we may do so, so I would keep it not far away.

20 THE WITNESS: Okay. I have that binder.

21 MS. BROWN: Great. Thank you.

22 BY MS. BROWN:

23 Q. So Mr. Ladd, who is Drew Cicciarelli?

24 MS. BROWN: And for the Court Reporter, that's  
25 C-I-C-C-I-A-R-E-L-L-I.

1 THE WITNESS: Drew Cicciarelli is a stock  
2 promoter. I believe his company is called -- I'm not  
3 sure, TSX -- TSX Media.

4 BY MS. BROWN:

5 Q. Okay. And how were you introduced to him?

6 A. By Barry Honig.

7 Q. And for what purpose, if you know, did  
8 Mr. Honig introduce you to Mr. Cicciarelli?

9 A. That I should hire him to get some visibility  
10 on the stock.

11 Q. To perform stock promotion services?

12 A. Yes. We have a contract that outlines what  
13 his services are, yes.

14 Q. And why is it that you decided to hire him?

15 A. Him specifically or...

16 Q. Him specifically?

17 A. Oh, because he was recommended by Honig.

18 Q. And did you feel like you could say no to  
19 Mr. Honig?

20 A. Well, I think the record shows very clearly I  
21 have no problem saying no to Mr. Honig. So yes, I could  
22 have said fuck you -- I'm sorry, I could have said  
23 something to the degree.

24 However, this case having some visibility of  
25 the company made sense. We were in a position where we

1 Q. Did you tell the FBI, "when a big shareholder  
2 asks you to do something, you do it," in connection with  
3 your retention of Mr. Cicciarelli?

4 A. It's in quotations, so I'm sure I said it.

5 Q. Okay. And further on down, you say -- it's  
6 recorded here that you reiterated that you initiated the  
7 payment to Mr. Cicciarelli because Honig told you to do  
8 it and you did not feel like you could say no to him.

9 Is that what you told the FBI?

10 A. That's what I told -- yes.

11 Q. Okay. All right. So let's look at the  
12 agreement that you entered into with Mr. Cicciarelli.  
13 So turn to tab 47.

14 A. Okay.

15 (Deposition Exhibit 47 marked.)

16 Q. And tab 47, for the record, is -- the  
17 beginning e-mail is from you dated January 21, 2016, to  
18 Mr. Cicciarelli. And then it has an attachment.

19 Do you recognize this e-mail and the  
20 attachment?

21 A. Yes.

22 Q. And do you recognize it as an e-mail you sent  
23 to Mr. Cicciarelli?

24 A. Yes. Yes, I do.

25 Q. All right. And do you recognize the

1 Mr. Cicciarelli, correct?

2 A. Or, as you say, maybe to TSX Ventures, but  
3 yes.

4 Q. Right. Right. And it, in fact, wasn't you,  
5 it was MGT who made that payment, right?

6 A. Sorry. Thanks for that, yes. Yes. Thank  
7 you.

8 Q. Okay. Good.

9 All right. So looking at Schedule A, which is  
10 at 22868.

11 A. Yes.

12 Q. The services that Mr. Cicciarelli, through  
13 TSX, was going to provide, include "Public relations  
14 campaign that include: Any content supplied by the  
15 client, interviews and multi-media material, research  
16 reports, filing, press releases, and other information  
17 as determined by the client and the consultant."

18 Was that consistent with your understanding of  
19 the services that Mr. Cicciarelli was to provide?

20 A. Yes. I would say Mr. Cicciarelli's strength  
21 was in having a very large mailing list -- e-mail list  
22 of people that followed his advice. You know, they -- a  
23 stock service, but that, just in general, is correct.

24 Q. Okay. And did you supply any content to him?

25 A. I don't recall.

1 in your letter, is, "The company engaged DF Media on  
2 May 4, 2016, in connection with a paid campaign to  
3 improve the company's visibility and awareness among  
4 small cap investors."

5 Do you see that?

6 A. Yes.

7 Q. So my question to you is: You didn't include  
8 the TSX contract, why not?

9 A. Just inadvertent, my opinion of this whole  
10 letter, they just wanted to know what happened at the  
11 trading when John McAfee joined the company, and I  
12 wanted to be sure that they knew we -- we did retain  
13 someone to increase that visibility, but I would say  
14 it's an oversight that I didn't look to see that in the  
15 prior 12 months it was also that guy, Drew Ciccicarelli.

16 Q. Okay. So you're acknowledging that it did  
17 request the contracts throughout the 12-month period,  
18 right?

19 A. Yes.

20 Q. Okay. Thank you. You can put binder 1 aside  
21 for right now.

22 All right. So tell me, if you could, who John  
23 Ford is?

24 A. Who he is? Or -- as of right now, he is a  
25 journalist who is part of this complaint.

1 point, that hopefully it was shorter, but I don't know.

2 Q. All right. And did you talk to Mr. Honig or  
3 Mr. Stetson about your interactions with Mr. Ford in  
4 connection with his article?

5 A. No.

6 Q. All right. So let's look at the exhibit  
7 behind tab 60, which is an exhibit we've previously  
8 marked as Holmes Exhibit 15.

9 Do you recognize that?

10 A. Yes. I see that, yes. I recognize it.

11 Q. Okay. That's a "Seeking Alpha" piece that's  
12 dated 11 -- sorry, April 11, 2013, by John H. Ford and  
13 it's title is, "Is MGT About to Receive a Big  
14 Settlement?"

15 So did you see this article at or about the  
16 time it was published, April 11, 2013?

17 A. Yes.

18 Q. Did you see any drafts of it prior to its  
19 publication?

20 A. I don't believe so.

21 Q. All right. The second full paragraph on the  
22 first page says, "Given the huge increase in MGT's  
23 recent trading volume, I'm speculating that settlement  
24 negotiations are occurring with one of the defendants,  
25 WMS Industries. If that is true, MGT's share price



1 could double within the next couple of weeks."

2 Do you see that?

3 A. Yes.

4 Q. And what was your reaction to that when you  
5 read it?

6 A. It's false.

7 Q. In fact, you considered the premise of the  
8 whole piece to be completely false; isn't that right?

9 A. I considered the title. I don't know about  
10 everything else in there. It's a pretty -- it's quite a  
11 long article.

12 Q. Okay. I asked about the premise.

13 MR. FORD: Nancy, do you want to define the  
14 premise so that he could respond?

15 MS. BROWN: I'm sorry?

16 MR. FORD: Do you want to just define the  
17 premise?

18 The premise being that there's about to be a  
19 settlement or settlement discussions?

20 MS. BROWN: Why don't we look at your 302. So  
21 Ladd Exhibit 302.

22 THE WITNESS: Yes.

23 BY MS. BROWN:

24 Q. And if we can go to 152974 which, if it helps  
25 is page 4 of 9.

1 A. Okay.

2 Q. And did you tell the FBI in words or  
3 substance -- I'm on the third paragraph here, second  
4 line -- the second sentence, "upon review Ladd advised  
5 that the premise of the article that MGT was in  
6 settlement talks regarding its online gaming patent was  
7 completely false"?

8 A. That would be true then and it's true now. So  
9 I would say the premise, if that's the word you want me  
10 to say is the premise of this article, then I would  
11 confirm that.

12 Q. Okay. Did you have an understanding of what  
13 was causing the huge increase in MGT's trading volumes  
14 that Mr. Ford refers to?

15 A. No. I didn't even know that. I guess I'm  
16 just reading here it increase -- no.

17 Q. You didn't understand --

18 A. My answer is no.

19 Q. You didn't understand that the --

20 A. My --

21 Q. -- sorry.

22 A. I just want you to repeat the question. I'm  
23 sorry.

24 Q. So you didn't understand that the trading  
25 volume was, in fact, caused by selling by Barry Honig

1 and others?

2 A. I did not know that.

3 Q. Okay. So after you saw this article, isn't it  
4 true that you suspected that Ford might have been  
5 compensated by Honig or some other MGT investor to write  
6 it?

7 A. It's a theoretical possibility. I think he is  
8 still long on the stock, so I don't know how much --  
9 that he was a money manager or what, but, you know,  
10 people -- journalists often exaggerate to, you know, to  
11 play their own book.

12 MR. FORD: Rob, the question was at the  
13 time -- sorry. I was trying to help Nancy. The  
14 question was at the time of this article, did you  
15 believe or think that Honig was compensating John Ford?

16 I think I got that right, Nancy; is that fair?

17 THE WITNESS: Absolutely not.

18 MS. BROWN: I said -- I said suspected.

19 MR. FORD: Okay. Yes. Suspected.

20 BY MS. BROWN:

21 Q. And your answer is absolutely not?

22 A. That I suspected Honig? Or that I suspected  
23 an investor?

24 Q. Correct. Had compensated Mr. Ford.

25 A. I don't remember, but I think what I do know

1 is that that's a common approach of somebody long in the  
2 stock to get an article written.

3 Q. All right. So let's turn to Ladd Exhibit 302  
4 again.

5 A. Mmmm-hmmm.

6 Q. And directing your attention to page 5 of 9 --

7 A. Mmmm-hmmm.

8 Q. -- the first full paragraph reads, "When Ladd  
9 first saw Ford's article in 2013, he suspected that Ford  
10 may have been compensated by Honig or other MGT  
11 investors to write the article."

12 Did you say that in words or substance to the  
13 FBI in March 2018?

14 A. Yeah. I think it's -- right. So this is how  
15 the FBI took it down, and I don't think it's different  
16 than what I just said now.

17 Q. Okay. And if we look at -- back to Holmes  
18 Exhibit 15, which is the document behind tab 60,  
19 Mr. Ford doesn't disclose that he's been compensated; is  
20 that fair?

21 A. Just from memory of reading these, I believe  
22 he said he's long to the stock.

23 Q. Okay.

24 A. His disclosure.

25 Q. If you turn to page 3 of 7 under "Disclosure"

1 A. I believe so. I mean I'm just --

2 Q. All right.

3 A. -- I don't see it right this second, but I  
4 don't dispute it.

5 MR. FORD: Nancy, where is it?

6 MS. BROWN: I'm in the last paragraph. The  
7 sentence begins "Moreover, while we expect his help in  
8 finding a reverse takeover candidate --"

9 MR. FORD: Okay. Thank you.

10 THE WITNESS: I see that, yes.

11 BY MS. BROWN:

12 Q. What was the source of those expectations,  
13 just the fact that he was frequently bringing you  
14 potential deals?

15 A. Oh, certainly that was the reason.

16 Q. Had you already had a discussion about  
17 Mr. McAfee --

18 A. No.

19 Q. -- with Mr. Honig?

20 A. No.

21 Q. All right. You also refer in that paragraph,  
22 you say, "he is certainly controversial," referring to  
23 Mr. Honig.

24 What did you mean by that?

25 A. He's a high profile -- I mean, I don't know

1 how to say this, but I've tried to say it now for two  
2 years or four years, but, I don't know how long we said  
3 it, there's a public persona of Barry Honig, and that  
4 would be broadly a promoter of crap.

5 So his controversy is that he makes money only  
6 for himself, not for stockholders. And it's -- he was  
7 the target of many, many articles by short sellers, and  
8 unfortunately, not by any authorities.

9 That led me to believe that, aside from being  
10 a loudmouth, you know, he did not violate securities  
11 laws. And in addition, I became, and always will,  
12 always was, hyper-vigilant anything that we did with  
13 Mr. Honig.

14 But if you want to make like a -- you could  
15 just like raise your hand to tell me to stop. I'm  
16 sorry. I'll answer the question now. I'll get off the  
17 soapbox.

18 Q. So how -- so you've talked about the first  
19 conversation you had with Honig about a possible  
20 transaction in whatever form with Mr. McAfee, but when  
21 did D-Vasive first enter the conversation?

22 A. I don't remember exactly, but, you know,  
23 sometime around then.

24 Q. Okay. And how was D-Vasive described to you?

25 A. As a startup technology company that had some

1 you know, that was kind of the due diligence with the  
2 attorneys, and structuring the deal, et cetera.

3 Q. And did Mr. O'Rourke have his own connection  
4 to Sichenzia?

5 A. Yes.

6 Q. And what was that?

7 A. That would be Harvey Kesner.

8 Q. So Mr. Kesner was Mr. O'Rourke's lawyer, as  
9 you understood it?

10 A. Yeah. I know he represented Honig quite a  
11 bit, maybe O'Rourke as well.

12 Q. He never represented you, did he?

13 A. No.

14 Q. And did that meeting take place --

15 MR. FORD: And by "you," do you mean MGT?

16 MS. BROWN: MGT --

17 CERTIFIED STENOGRAPHER: Counsel -- counsel --  
18 (Simultaneous cross-talking.)

19 MS. BROWN: Fair question.

20 BY MS. BROWN:

21 Q. Did he represent you in your personal  
22 capacity?

23 A. Exactly. The answer is no in both cases.

24 Q. Thank you.

25 A. Harvey Kesner -- okay.

1 A. Yes.

2 Q. And you knew that that was not, in fact, true,  
3 correct?

4 A. I know now that it -- when you read it, it is  
5 incorrect. At the time I put it in, I unfortunately  
6 missed the mistake.

7 Q. And what part of it do you now know to be  
8 inaccurate?

9 A. Well, the way it reads in this release, is if  
10 John McAfee himself sold McAfee Associates to Intel for  
11 7.6 billion all at once, like that he was at McAfee  
12 Associates, and that when it was sold, he was at McAfee  
13 Associates.

14 Q. And at the time this press release was issued,  
15 you knew that McAfee sold his interest in McAfee  
16 Associates or Inc. in the 1990s well before the company  
17 was sold to Intel; isn't that correct?

18 A. I knew that. I think everyone knew that, but  
19 yes.

20 The funny story is the highest viewed YouTube  
21 video was how to -- how to uninstall McAfee anti-virus  
22 done by John McAfee.

23 Q. Right.

24 A. So...

25 Q. All right. So I think you've just described



1 sold his anti-virus company to Intel for 7.6 billion,"  
2 right?

3 A. Yes.

4 Q. Is that when you added the language between  
5 your last e-mail with Ms. Wu at -- late in the evening  
6 the night before and 6:43 a.m.?

7 A. I'll check for you if you'd like. I thought  
8 it was earlier, but I'm not sure.

9 Q. Well, we just looked at a bunch of drafts that  
10 did not have that language. So I'm just trying to pin  
11 down when it was that you added it.

12 A. Then I think it's fair to say yes, it happened  
13 sometime between the draft without it and the draft with  
14 it, yes.

15 Q. And do you recall why you added it?

16 A. I don't, but I've revised things up until the  
17 final moment. There are times when I call PR Newswire  
18 and make a change.

19 So the answer is -- I don't want to say I'm a  
20 perfectionist because that's obviously the wrong term  
21 here, but I'm a writer -- closet writer, I guess, and I  
22 would like it to read correctly.

23 Q. Did you expect the press release to have a  
24 positive effect on MGT stock on its issuance?

25 A. Yes.

1 A. I know.

2 Q. -- the person who's testifying.

3 A. It's the other way around, I'm sorry. Yeah.

4 Q. So did you tell anyone, in the course of  
5 providing that final press release, that McAfee had not  
6 sold his company to Intel for \$7.6 billion?

7 A. Not that I recall.

8 Q. All right. So on May 9th you, at least I  
9 think we saw referred to in the New York Stock Exchange  
10 correspondence that we looked at, you had retained the  
11 services of Stockbeast.com for investor relations  
12 services; is that right?

13 A. Yes.

14 Q. Okay. And if you look at the exhibit we've  
15 got behind tab 79, it's an exhibit we marked as Holmes  
16 Exhibit 28, and it's a May 9 Stockbeast piece, and I  
17 asked if you recognize it?

18 A. Yes.

19 Q. And the first -- if you go to the actual text  
20 of the piece which begins on 4 of 8, the first paragraph  
21 contains this language -- I guess I'll read the whole  
22 first paragraph because it doesn't make any sense if I  
23 don't.

24 "When I was young I used to watch Jeopardy and  
25 I would try to guess at the answers. I was pretty good

1 two-month MGT contract."

2 Was that an accurate statement of how much MGT  
3 had paid for Stockbeast services?

4 A. Yes.

5 Q. Did you review a draft of this Stockbeast  
6 article, Holmes Exhibit 28, prior to its publication?

7 A. No.

8 Q. Did you have a discussion with anyone, prior  
9 to its publication, that it was about to come out?

10 A. No.

11 Q. And how did you come to retain Stockbeast?

12 A. Um --

13 Q. Whose suggestion was it?

14 A. I believe that was the suggestion of an  
15 employee or consultant of ours named Steve Schaffer who  
16 was a little more aware of the mailing lists that had  
17 the biggest circulation.

18 Q. And how do you --

19 A. But that didn't matter much.

20 Q. Okay. Thank you.

21 How did you -- what was your understanding of  
22 how it was that he was aware of which publications had,  
23 I guess you're saying, a good mailing list?

24 A. How Steve was?

25 Q. Mmmm-hmmm. Yes.

1 goes out, including attorney review, accounting review  
2 before a 10 -- you know, any periodic filing goes out.

3 Q. All right. Did you discuss any disclosure  
4 issues with the accountants with respect to the issues  
5 around the McAfee press release -- the May 9th press  
6 release?

7 A. I don't recall any.

8 Q. All right. So at page 9 of 29, the  
9 penultimate paragraph, one, two, three, four lines from  
10 the bottom of that paragraph, all the way to the right  
11 says, "John David McAfee is the cyber security  
12 industry's pioneer and the developer of the world's  
13 first commercial anti-virus software. He founded McAfee  
14 Associates in 1987 which was acquired by Intel  
15 Corporation for 7.6 billion in 2010."

16 Do you see that?

17 A. Yes.

18 Q. So why does that language differ from the  
19 press release in which -- the May 9th press release in  
20 which the statement was that Mr. McAfee had sold his  
21 company to Intel for 7.6 billion?

22 A. So I think the first one was like in the  
23 active voice versus passive voice, whatever, it's like  
24 McAfee sold the company, and this one is the company  
25 that he founded was sold to Intel.

1 Q. And did you discuss that change with anyone?

2 A. Oh, sure. That was -- that was vetted inside  
3 out.

4 Q. Okay. Did you make any additional disclosures  
5 that would point out what had been erroneous in the  
6 original press release?

7 A. I did not.

8 And I should also state that, with the  
9 exception of that one short seller, that no one else  
10 brought that to our attention.

11 And we were doing it mainly because we know  
12 that short seller contacted the SEC and tried to whistle  
13 blow, you know, a giant fraud based on one small  
14 misstatement. That's why we took a lot of care and  
15 effort into doing this language in the 10-Q.

16 Q. I may have misunderstood your prior testimony,  
17 but I thought you said that there were lots of short  
18 sellers who wrote pieces about the error in the press  
19 release; is that not your testimony?

20 A. Oh, if I did, I'm not sure.

21 But short sellers are also notorious for  
22 having brothers and sisters in six different languages,  
23 but --

24 Q. I'm sure they're notorious, Mr. Ladd, but what  
25 I'm trying to find out is what you knew at the time.

1 filed."

2           And then skipping a sentence it says, "The  
3 apparent concealment by Iroquois of the ownership  
4 interests and trading activity of ACM, not only to the  
5 company in the nomination letter, but to the SEC,  
6 creates a materially misleading communication to the  
7 company's stockholders."

8           Do you see that?

9           A.    Yep.

10          Q.    All right.  So what is ACM?

11          A.    I -- I believe ACM, then and now, was a  
12 retirement vehicle for Iroquois, which is Rich --  
13 Richard Abbe and Joshua Silverman.

14          Q.    So was it MGT's position that ACM was an  
15 affiliate or associate of or acting in concert with  
16 Iroquois Master Fund by virtue of its relationship to  
17 Mr. Silverman, Mr. Abbe, and other members of Iroquois  
18 Capital Management?

19          A.    Yes.  We believed -- excuse me -- it was  
20 common voting principles, common economic interests that  
21 everything was -- you know, it's like let's call it, you  
22 know, Ladd and Ladd IRA account.

23          Q.    And that conclusion also supported your  
24 conclusion that Iroquois had violated Section 13 of the  
25 Exchange Act by failing to disclose ACM's holdings of

1 MGT stock; is that right?

2 A. Yes.

3 Q. And why is that?

4 A. Well, because you would need to aggregate  
5 ownership holdings like that as being controlled by the  
6 single entity.

7 Q. And is that what Section 13 requires?

8 A. I believe, among other things, yes.

9 Q. And what information does Section 13 -- what  
10 is it intended to provide? Or does --

11 CERTIFIED STENOGRAPHER: Excuse me, Nancy --

12 MS. BROWN: Yes. Sorry. My headphones just  
13 died.

14 Can you hear me?

15 THE WITNESS: Yes, I can.

16 MS. BROWN: Okay. Great.

17 BY MS. BROWN:

18 Q. And what about the relationship between ACM  
19 and Iroquois made that Section 13 filing by Iroquois  
20 necessary?

21 Was it simply the common voting principles and  
22 the common economic interests that you discussed  
23 earlier?

24 A. Yes. And the fact that added together it  
25 would exceed the threshold -- excuse me -- reporting

1 way -- the way I included MGT, and Ladd, and MGT Sports  
2 in that previous one you showed me, is there anything  
3 like that that I should disclose?

4 And the answer is no.

5 Q. And did you discuss your understanding of the  
6 purpose of the question with anyone?

7 A. No.

8 Q. Okay. 3.5, 5 percent holders.

9 "Do you know of any person or group of persons  
10 which beneficially owns 5 percent or more of the common  
11 stock of the company?"

12 And you answered, "Yes. Iroquois Capital."

13 Correct?

14 A. Yes.

15 Q. And on what did you base that answer?

16 A. I believe Iroquois filed a 13D and it was  
17 public information.

18 Q. So only public filings?

19 A. Yeah. And it depends how they held their  
20 stock. If they held it in their own name, I could tell  
21 from the registrar, you know, the transfer agent or  
22 whatever, but generally the holder is required to file.

23 Q. Well, that sort of was my question.

24 Did you make any separate inquiry as to what  
25 Iroquois owned?



1           Like, for example, asking the transfer agent  
2           for a NOBO list or anything like that?

3           A.    Well, periodically, yes, we get NOBO lists. I  
4           think -- not to digress, but going back to the ACM, I  
5           think ACM was actually on the NOBO list, which is how we  
6           found out.

7           Q.    Okay. Did you make that kind of inquiry for  
8           any other of your shareholders or to answer this  
9           question about who owned more than 5 percent?

10          A.    I don't recall exactly, but obviously you  
11          don't want secret accumulation in your stock. So if I  
12          saw a NOBO list with, you know, Mr. Smith, and then  
13          Mrs. Smith, and John Smith, and everything else, I mean,  
14          you know, it was something I was aware of and have had  
15          happen. But I --

16                CERTIFIED STENOGRAPHER: Excuse me, Mr. Ladd,  
17          I cannot hear you.

18                MS. BROWN: Yeah. What's happening? I cannot  
19          hear you.

20                THE WITNESS: He's closing the blinds again.  
21          Just the daily closing of the blinds.

22                MS. BROWN: None of us can hear anything while  
23          he does that.

24                THE WITNESS: Yes. I see the background  
25          noise.

10:09 1 outcome. And he was very careful to not describe  
10:09 2 what the advice was, only that there was advice  
10:09 3 obtained and an action occurred. So he's  
10:09 4 absolutely not waiving privilege.

10:09 5 MS. BROWN: Thank you.

10:09 6 Q. And did you make any inquiry on your own  
10:09 7 to determine whether or not Mr. Honig was acting as  
10:09 8 part of a group other than what you've described  
10:09 9 already, which is reviewing the subscription  
10:10 10 agreements in which you read that there was some  
10:10 11 sort of representation, that they were not, and  
10:10 12 your conversations with counsel, whatever they may  
10:10 13 have involved, and your comfort from the New York  
10:10 14 Stock Exchange's -- what you perceived to be their  
10:10 15 conclusion?

10:10 16 A. Did I do more than that, you're saying?

10:10 17 Q. Yes. Did you make any inquiry other than  
10:10 18 that?

10:10 19 A. Not that I recall.

10:10 20 Q. And other than the conversations -- or the  
10:10 21 consultation you had with counsel that you've  
10:10 22 already discussed, did you discuss the issue of  
10:10 23 whether Mr. Honig was acting as part of a group  
10:10 24 with anyone?

10:10 25 A. I mean, there was a topic that, for lack

10:11 1 of a better term, is an elephant in the room in  
10:11 2 terms of all these investors, mainly for Section 13  
10:11 3 purposes, need to be legally not a group;  
10:11 4 otherwise, a company like ours could disgorge them  
10:11 5 of any profits they make on a deal. And,  
10:11 6 unfortunately, there's been no determination in  
10:11 7 this case or in any other case that I'm aware of  
10:11 8 that Mr. Honig acted as a group that would, under  
10:11 9 securities laws, need to be disclosed.

10:12 10 Q. Okay. Thank you. So I just want to  
10:12 11 restate what you said so I understand it, so  
10:12 12 correct me if I've said it wrong. But from your  
10:12 13 perspective, this was a continuing and very  
10:12 14 important issue in your interactions with Mr. Honig  
10:12 15 and the two investments he made in MGT, whether he  
10:12 16 was part of a group?

10:12 17 A. I don't want to lead you to believe it was  
10:12 18 important to me. I believe it was important to  
19 them.

20 Q. Okay.

10:12 21 A. I was -- my concern would be that they can  
10:12 22 exert no control over me.

10:12 23 Q. All right. So you mentioned the New York  
10:12 24 Stock Exchange. Let's talk about that for a  
10:12 25 minute. In connection with the October 2012

10:13 1 financing, what inquiry, if any, did the New York  
10:13 2 Stock Exchange make concerning any of the  
10:13 3 investors' relationship to each other?

10:13 4 A. Is there a document to look at on that one  
10:13 5 or --

10:13 6 Q. Can you just tell me what you recall first  
10:13 7 and then look at documents?

10:13 8 A. So what I recall is there was Hudson Bay,  
10:13 9 Iriquois, and Barry Honig investing as part of the  
10:13 10 same investment group. And I recall several  
10:13 11 discussions with our analysts at New York Stock  
10:13 12 Exchange to ensure that they were comfortable with  
10:13 13 the representations of those investors, as well as  
10:13 14 what other information they may have. And keep in  
10:14 15 mind that a guy like Mr. Honig was on the board of  
10:14 16 directors of several or at least few NASDAQ and New  
10:14 17 York Stock Exchange companies. So there was  
10:14 18 nothing that really jumped out at me to say that he  
10:14 19 was doing something undisclosed.

10:14 20 And, again, the impact would be one of  
10:14 21 Section 16. If they were deemed to be a group, they  
10:14 22 would become de facto affiliates by owning more than  
10:14 23 10 percent. At that time, any short swing profits  
10:14 24 become the property of the company.

10:14 25 So from an economic model, that's something

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
vs. ) Case No.  
 ) 18 Civ. 8175 (ER)  
BARRY C. HONIG, ROBERT LADD, )  
ELLIOT MAZA, BRIAN KELLER, )  
JOHN H. FORD, GRQ CONSULTANTS, )  
INC., and HS CONTRARIAN )  
INVESTMENTS, LLC, )  
 )  
Defendants. )  
\_\_\_\_\_ )

VOLUME 3  
VIDEO DEPOSITION OF ROBERT LADD  
VIA VIDEOCONFERENCE  
Tuesday, November 10, 2020

REPORTED BY:  
GRACE CHUNG, CSR No. 6246,  
RMR, CRR, CLR  
JOB NO. 201110GCH

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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COMMISSION, )  
 )  
Plaintiff, )  
 )  
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JOHN H. FORD, GRQ CONSULTANTS, )  
INC., and HS CONTRARIAN )  
INVESTMENTS, LLC, )  
 )  
Defendants. )  
\_\_\_\_\_ )

Videotaped deposition of ROBERT LADD, Volume 3,  
taken via videoconference on behalf of Plaintiff,  
beginning at 10:04 a.m. EST and ending at 11:54 a.m.  
EST, on Tuesday, November 10, 2020, before GRACE CHUNG,  
CSR No. 6246, RMR, CRR, CLR.

A P P E A R A N C E S

(All appearances via videoconference.)

For the Plaintiff:

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Also Present: TIM HUNTER, Videographer

10:25 1 Q. Okay. So Mr. Kesner, as you understood  
10:25 2 it, was Barry Honig's attorney?

10:25 3 A. Correct.

10:25 4 Q. And did you do anything to verify that  
10:25 5 Jonathan Honig and Barry Honig were separate  
10:25 6 investment entities?

10:25 7 A. So, again, they represented to the company  
10:25 8 that they were separate. And in the case of funds,  
10:26 9 I believe this deal was --

10 (Reporter interruption for clarification  
11 of the record.)

10:26 12 A. Funding. I believe this transaction  
10:26 13 closed in escrow, so Sichenzia would have seen if,  
10:26 14 for example, those two investments came from the  
10:26 15 same place and would have an obligation to tell me.

16 BY MS. BROWN:

10:26 17 Q. And did you ever speak to Jonathan Honig  
10:26 18 in connection with negotiation of the 2012  
10:26 19 financing?

10:26 20 A. Not that I recall.

10:26 21 Q. Okay. So let's talk a little bit about  
10:26 22 that negotiation. So who put the investors  
10:26 23 together that participated in the 2012 financing?

10:27 24 A. I believe Chardan Capital was involved.

10:27 25 Q. Okay. Did they -- did they pull the



10:09 1 outcome. And he was very careful to not describe  
10:09 2 what the advice was, only that there was advice  
10:09 3 obtained and an action occurred. So he's  
10:09 4 absolutely not waiving privilege.

10:09 5 MS. BROWN: Thank you.

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10:09 8 part of a group other than what you've described  
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10:12 15 and the two investments he made in MGT, whether he  
10:12 16 was part of a group?

10:12 17 A. I don't want to lead you to believe it was  
10:12 18 important to me. I believe it was important to  
19 them.

20 Q. Okay.

10:12 21 A. I was -- my concern would be that they can  
10:12 22 exert no control over me.

10:12 23 Q. All right. So you mentioned the New York  
10:12 24 Stock Exchange. Let's talk about that for a  
10:12 25 minute. In connection with the October 2012

10:13 1 financing, what inquiry, if any, did the New York  
10:13 2 Stock Exchange make concerning any of the  
10:13 3 investors' relationship to each other?

10:13 4 A. Is there a document to look at on that one  
10:13 5 or --

10:13 6 Q. Can you just tell me what you recall first  
10:13 7 and then look at documents?

10:13 8 A. So what I recall is there was Hudson Bay,  
10:13 9 Iriquois, and Barry Honig investing as part of the  
10:13 10 same investment group. And I recall several  
10:13 11 discussions with our analysts at New York Stock  
10:13 12 Exchange to ensure that they were comfortable with  
10:13 13 the representations of those investors, as well as  
10:13 14 what other information they may have. And keep in  
10:14 15 mind that a guy like Mr. Honig was on the board of  
10:14 16 directors of several or at least few NASDAQ and New  
10:14 17 York Stock Exchange companies. So there was  
10:14 18 nothing that really jumped out at me to say that he  
10:14 19 was doing something undisclosed.

10:14 20 And, again, the impact would be one of  
10:14 21 Section 16. If they were deemed to be a group, they  
10:14 22 would become de facto affiliates by owning more than  
10:14 23 10 percent. At that time, any short swing profits  
10:14 24 become the property of the company.

10:14 25 So from an economic model, that's something

10:32 1 Q. And Miramar investors. Do you know who  
10:32 2 that is?

10:32 3 A. Not as I sit here.

10:32 4 Q. All right. And who determined the  
10:32 5 allocations of the investors who ultimately  
10:32 6 invested in the 2012 financing?

10:32 7 A. Well, as I recall, because of the success  
10:33 8 Honig has with investments, that he chooses those  
10:33 9 people to invest with him. So, as I said, they all  
10:33 10 invest with the common subscription agreement.  
10:33 11 But, you know, if we substitute the name "Honig"  
10:33 12 for "Chardan," you know, Honig operates as an  
10:33 13 investment banker, at least in his mind.

10:33 14 Q. Why would we substitute the name Honig for  
10:33 15 Chardan?

10:33 16 A. Because Honig fancied himself an  
10:34 17 investment banker, and Chardan is a pretty  
10:34 18 low-level investment banker.

10:34 19 Q. Okay. Let's look at Ladd Exhibit 92,  
10:34 20 which is behind Tab Exhibit 92.

21 (Deposition Exhibit 92 was marked for  
22 identification by the reporter and is  
23 attached hereto.)

10:34 24 MS. BROWN: It purports to be -- the top  
10:34 25 email purports to be from you to Harvey Kesner,

10:34 1 Tara Guarneri-Ferrara, and Susanna Aronbayev, dated  
10:34 2 October 23, 2012.

10:34 3 Q. Do you recognize this as an email that you  
10:34 4 sent on or about that date?

10:34 5 A. Yes.

10:34 6 Q. And who's Tara Guarneri-Ferrara?

10:34 7 A. I think she's an attorney at Sichenzia.

10:35 8 Q. Does she work with Mr. Kaplowitz and  
10:35 9 Mr. Marcus?

10:35 10 A. So I think she worked with Harvey, but I'm  
10:35 11 not sure.

10:35 12 Q. But with Mr. Kesner?

10:35 13 A. And that reminded me. I wanted to point  
10:35 14 out that in this deal, I believe Kesner was  
10:35 15 representing investors. So that's why they were  
10:35 16 involved on it -- or involved, you know, in the  
10:35 17 email chains.

10:35 18 Q. Do you know who Susanna -- I'm not going  
10:35 19 to try to say her last name again, but also on the  
10:35 20 email, do you know who she is?

10:35 21 A. I don't.

10:35 22 Q. All right. So if we can turn the page on  
10:35 23 this exhibit and start with the second-to-last one,  
10:36 24 which is from Mr. Kesner to Ms. Guarneri-Ferrara  
10:36 25 and Susanna. And he writes, "Tara, you should

10:50 1 right?

10:50 2 A. Yes.

10:50 3 Q. So I think you've already testified that  
10:50 4 in connection with the 2012 financing, you, as MGT,  
10:50 5 on the one hand hired lawyers from Sichenzia, and  
10:50 6 Honig, on the other hand, hired a different lawyer,  
10:50 7 Mr. Kesner, from Sichenzia; is that right?

10:50 8 A. That's my recollection, yes.

10:50 9 Q. And in that connection, were you asked  
10:50 10 about Sichenzia to waive conflicts?

10:50 11 A. Yeah, I think so. I'm pretty sure we  
10:50 12 signed one, if not many, conflict waivers with  
10:50 13 Sichenzia over time.

10:51 14 Q. And did all those conflict waivers relate  
10:51 15 to Sichenzia's -- different lawyers from Sichenzia  
10:51 16 representing Honig and others?

10:51 17 A. Yeah, it was more like others. I think it  
10:51 18 was a boilerplate-type conflict waiver.

10:51 19 Q. Okay. Let's look at what we've marked as  
10:51 20 Ladd Exhibit 62, which is behind Tab 62.

21 (Deposition Exhibit 62 was marked for  
22 identification by the reporter and is  
23 attached hereto.)

10:51 24 MS. BROWN: And Ladd Exhibit 62, for the  
10:51 25 record, purports to be an email from you dated

11:31 1 is this is an email that was sent to me from  
11:31 2 Jonathan Schechter. It includes at least two  
11:31 3 attorneys from buyer and seller and my CFO, and it  
11:32 4 doesn't mean anything to me unless it was a  
11:32 5 transaction.

11:32 6 Q. Do you recall any of the buyers in the  
11:32 7 2012 financing selling their units to an entity  
11:32 8 called Savvy Capital in 2013? Does that refresh  
11:32 9 your recollection?

11:32 10 A. To who?

11:32 11 Q. Savvy.

11:32 12 A. Can you spell --

11:32 13 Q. S-A-V-V-Y.

11:32 14 A. Yes. Okay. Savvy, they ended up busting  
11:32 15 the deal. Honig busted the deal, and Savvy, I  
11:32 16 think, went short to stock in anticipation. It was  
11:32 17 a pretty ugly situation. But, as I said, that deal  
11:32 18 never closed. And if it had closed, it would have  
11:32 19 been correctly reported if necessary.

11:33 20 But that's the time when I got the  
11:33 21 expression of Honig. Over the weekend, he DK'd the  
11:33 22 deal, and he said, "Sometimes you feel like a hot  
11:33 23 dog, and then sometimes you feel like a hamburger."  
11:33 24 So another reason why everything needs to be in  
11:33 25 writing with Honig.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

--o0o--

SECURITIES AND EXCHANGE )  
COMMISSION, )  
Plaintiff, )  
vs. ) Case No.  
18 Civ. 8175 (ER)  
BARRY C. HONIG, ROBERT LADD, )  
ELLIOT MAZA, BRIAN KELLER, )  
JOHN H. FORD, GRQ CONSULTANTS, )  
INC. and HS CONTRARIAN )  
INVESTMENTS, LLC )  
Defendants. )  
\_\_\_\_\_ )

DEPOSITION OF

ROBERT LADD

VOLUME 4 - PAGES (406-506)

VIA REMOTE VIDEOCONFERENCE

FRIDAY, AUGUST 5, 2022

Stenographically Reported by:  
Victoria L. Valine, CSR, RMR, CRR, RSA  
California CSR License No. 3036  
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(All parties appeared remotely via videoconference.)

1       been any number of things.

2           Q.    Do you remember meeting her more than once?

3           A.    No.

4           Q.    Did you ever meet any of his children?

5           A.    Never, no.

6           Q.    You were aware he had children, though, right?

7           A.    I mean, I'm aware now.  Let's put it this way,  
8       he was not a paternal person who would talk about his  
9       kids the way I might, you know, being proud of my kids  
10      going to Stanford, et cetera.  I never heard anything  
11      like that.

12          Q.    Wasn't the genesis of the Four Kids Investment  
13      Fund Mr. Honig's children?

14          A.    I really have no idea.  I don't know today  
15      whether it's his kids or -- I thought maybe it was his  
16      brother's kids or something.  I'm not really sure.  I've  
17      seen that name.

18                So if he controlled it, then it would show up  
19      on his ownership list.  So I know GRQ was an entity he  
20      controlled.  Get Rich Quick, GRQ.

21          Q.    Now, we talked a little bit last time we were  
22      together about the Iroquois nomination letter in  
23      July 2014.

24                Do you remember that?

25          A.    Yes.

1 Q. And you told us then that MGT had retained  
2 Mr. Freedman, F-R-E-E-D-M-A-N, at Olshan, O-L-S-H-A-N,  
3 because of his M&A expertise.

4 Do you recall that?

5 A. I think it was because of his expertise in  
6 hostile takeover situations, but, yes, he was retained  
7 for that reason.

8 Q. Okay. And you thought Iroquois was about to  
9 launch a hostile takeover, right?

10 A. I believe they sent a letter to that effect.  
11 There was a series that -- we filed an 8-K to alert the  
12 market as to their intent.

13 SEC never followed up on it, but we tried to  
14 get some protection from a shakedown from Iroquois, and,  
15 unfortunately, that fell on deaf ears. So they followed  
16 that up with a -- you know, a threat to nominate  
17 directors at a meeting.

18 Q. Did you believe that Mr. Freedman also had  
19 expertise in Section 13(d) disclosure matters?

20 A. I assume he did. I mean, that's part of  
21 anti-takeover measures. It's a very common -- unlike  
22 this proceeding, the only time 13(d) becomes an issue is  
23 when a raider is accused by another company of forming  
24 an illegal group.

25 I think you probably are aware that I've been

1 Q. And did he tell you that if correspondence  
2 from one shareholder were sent to the attention of  
3 another shareholder, that would be a factor in the group  
4 analysis?

5 A. I don't recall that.

6 Q. Did he tell you that if an employee of one  
7 shareholder is a managing member of another, that would  
8 be a factor in the group analysis?

9 A. I really can't recall any specific  
10 information. I would modestly say I know more about  
11 13(d) than nearly anyone else on Wall Street.

12 Q. And did he tell you if they were acting as a  
13 group and didn't properly disclose that in Section 13(d)  
14 filings, such an omission would cause a materially  
15 misleading communication to the company stockholders?

16 A. No. I don't remember anything like that.

17 Q. Now, on page 4 of the letter -- and that's,  
18 just for your reference, Holmes Exhibit 12, which we've  
19 sent to you -- you mention that in the paragraph -- the  
20 last full paragraph on page 4 of the letter it begins,

21 "Notwithstanding ongoing direct  
22 questioning by the company..."

23 Do you see that?

24 A. Unfortunately, I pulled up Holmes 10. Let me  
25 find Holmes -- Ladd, Ladd, Ladd -- yeah. I see it. It

1           A.    I can't remember that. I'm sorry.

2           Q.    Well, did you ask any questions of Iroquois  
3 before you sent this letter?

4           A.    I don't remember. But to reiterate what I  
5 said, until this litigation Section 13 was a private  
6 action among warring parties in a takeover battle. So,  
7 you know, anything I would read on a commercial lawsuit  
8 I wouldn't put too much stock in.

9           Q.    All right. I'm simply asking about the  
10 letter, Mr. Ladd.

11                   So did you consult with any attorney,  
12 including Mr. Freedman, about what questions you should  
13 ask of Iroquois in connection with their nomination  
14 letter?

15           A.    Notwithstanding, like I said, that I'm the --  
16 considered, humbly, a very good expert in 13 --  
17 Section 13. You know, attorneys do go to school for  
18 this and get paid very high rates. So I rely on  
19 attorneys and listen to what they say.

20                   But, you know, to this minute today, I don't  
21 remember what he asked me, what he told me to do,  
22 whether he did it, whether someone else did it,  
23 Traversa, you know, I don't get -- I don't remember the  
24 specifics.

25           Q.    And do you recall what answers you received in

1           A.     Yes.

2           Q.     So my question is:  If you had the SEC filings  
3     that Iroquois made disclosing its ownership, why didn't  
4     you trust them?

5           MR. FORD:  I'm going to object to form and  
6     lack of foundation.

7           THE WITNESS:  So to go back on memory alone,  
8     there's other sources of stock ownership that a company  
9     has access to, such as DTC records or Broadridge, and I  
10    believe in one of those shareholder lists it came up  
11    that American Capital owned the shares in addition to  
12    Iroquois.

13           And, as I mentioned, I certainly believed at  
14    the time, and still believe, that American Capital was  
15    the retirement vehicle of Abbe and Silverman.  So they,  
16    obviously, the same way Honig would disclose GRQ or his  
17    401K, that would need to be disclosed as owner -- as  
18    common owner.

19    BY MS. BROWN:

20           Q.     Were you distrustful of any other investors'  
21    SEC filings?

22           A.     I distrust every investor.

23           Q.     And after your issue with Iroquois was  
24    resolved, you continued to have doubts about the  
25    accuracy of their SEC disclosures about their ownership

1 have here in AP Exhibit 31?

2 A. Not to my knowledge or recollection.

3 Q. Did you ever suggest that any other investor  
4 make updated SEC filings with respect to their ownership  
5 of MGT shares?

6 A. I don't remember. And, generally speaking,  
7 there are -- it's the obligation of the investor to file  
8 correctly. And if they don't file, in the absence of me  
9 knowing some way -- some other way, there would be no  
10 way for me to know if someone owned five percent or more  
11 right now.

12 Q. Well, so let me ask you this. Why are you, in  
13 January 2016, concerned with whether Iroquois's filings  
14 are accurate?

15 A. Why wouldn't I?

16 Q. Well, I guess my question is: What was in it  
17 for you?

18 You mention in this email that this  
19 information will go into the S-1 with your beneficial  
20 ownership equal to 9.9 percent.

21 A. Mmmm-hmmm.

22 Q. Was that your concern, that your S-1 had to  
23 reflect accurately Iroquois's beneficial ownership of  
24 MGT shares?

25 A. That is probably a very good reason. We

1 wanted to have an accurate S-1 so that, yes, would make  
2 sense. But when you imply something in it for me, that  
3 was uncalled for.

4 Q. So, I'm sorry. I really was trying to get to  
5 the bottom of what your interest in his accurate filings  
6 was, and I think you've explained that.

7 MR. FORD: That's the basis of my --

8 BY MS. BROWN:

9 Q. So if there was any inference that you drew, I  
10 apologize.

11 MR. FORD: That was the basis of my objection  
12 as well.

13 MS. BROWN: Thank you.

14 (Deposition Exhibit 106 marked.)

15 BY MS. BROWN:

16 Q. All right. So let's turn to, if we could,  
17 Ladd Exhibit 106. And Ladd Exhibit 106, for the record,  
18 is a Schedule 13D filed with respect to events occurring  
19 on June 27, 2014 by Iroquois with respect to ownership  
20 of MGT Capital Investments, Inc.

21 Mr. Ladd, do you recognize Ladd Exhibit 106?

22 A. Yes. I see it. Yes.

23 Q. All right.

24 A. It's exactly what you said it was.

25 Q. Okay. Thank you.



1 Iroquois dispute?

2 A. I don't remember specifically. Jay Kaplowitz  
3 was our attorney since 2011. Jay knew everything about  
4 what happens at MGT. So my assumption would be he would  
5 know about this.

6 Q. Well, irrespective of which lawyer you  
7 consulted with respect to Holmes Exhibit 12, you  
8 believed, at the time that this letter was issued by  
9 MGT, everything that's in it, right?

10 You believed that was all true?

11 A. Well, again, as I say, given the fact that I  
12 had more assistants back then between Traversa and  
13 Van Leenen, I -- let's put it this way, I wouldn't let a  
14 letter go out that was factually incorrect.

15 Q. Okay.

16 A. But I don't know that all the contents in here  
17 were confirmed by me at that time.

18 Q. At any time after this letter was sent to  
19 Iroquois, did you consider whether Iroquois's failure to  
20 disclose its group holdings with ACM gave MGT any  
21 responsibility to amend its own disclosures?

22 A. Well, as I said, the actions in private  
23 litigation on Section 13 are merely for leverage, and  
24 this case is highly unusual in its scope, but,  
25 generally, it's an onus on the investor to -- to

1 couldn't rely on investors' Schedule 13D disclosures?

2 A. Not that I recall.

3 Q. So is it fair to say that, other than the  
4 October 18, 2012 e-mail, you have no recollection of  
5 having discussed the group status of Honig and his  
6 co-investors again?

7 A. You said we're back to 2012 again? Which  
8 email? I have that widely circulated --

9 Q. AM --

10 A. -- email --

11 Q. AM number 1.

12 A. Right. Okay. All right. And the question,  
13 please?

14 Q. Is other than this email from  
15 October 18, 2012, do you have a recollection of any  
16 further discussions with Mr. Kaplowitz or Mr. Marcus  
17 about Honig's group status?

18 A. I don't recall. It's not a -- it's a given  
19 that you're not a group unless proven otherwise. So  
20 you're asking like if he was a pedophile, would I keep  
21 asking or something?

22 Q. In your prior testimony you mentioned due  
23 diligence into the group status of Honig and his  
24 co-investors that you conducted arising out of the  
25 rumors you heard in 2012 that the SEC was investigating

1 Honig, Iroquois, and Hudson Bay as an investment group.

2 Do you recall that?

3 A. I recall the New York Stock Exchange  
4 approving, but questioning, the deals where those three  
5 investors co-invested.

6 Q. Well, tell me about that rumor. Where did you  
7 hear that rumor that the SEC was investigating the group  
8 status?

9 A. Well, I mean, I believe the New York Stock  
10 Exchange and I or Deo discussed it. I'm sure he didn't  
11 tell me if there was an ongoing investigation, but, you  
12 know, Wall Street is full of rumors.

13 Q. And I think you just said Deo in your last  
14 response, that's Mr. Machado, M-A-C-H-A-D-O?

15 A. Yes.

16 Q. All right. And who brought up the rumor? Was  
17 it you or Mr. Machado?

18 A. That, I don't remember.

19 Q. And this was prior to the 2012 financing?

20 A. I don't recall. It was probably coincident  
21 with that.

22 Q. And -- and the substance of the rumor was that  
23 the SEC was investigating whether Honig, Iroquois, and  
24 Hudson Bay were investing as an undisclosed group; is  
25 that -- was that your understanding?

1           A.    Yes.  And, again, the -- I guess, interest  
2   from people is related to Section 16, so that it would  
3   regard -- it would influence the ability of short-term  
4   profits.

5           Q.    And did you have an understanding of the basis  
6   of the rumor?

7           A.    I didn't start it, let's put it that way.

8           Q.    Well, was it past deals that the three of them  
9   were involved in?

10          A.    It may have.  I have no idea.  There's common  
11   investors in a lot of these small cap companies.

12          Q.    Did you have an understanding of whether there  
13   were others in the rumored group?

14          A.    At that time, those are the three names I  
15   recall.

16          Q.    Okay.  And you told us that you conducted due  
17   diligence about that rumor.

18                Do you recall that?

19          A.    I don't recall specifically what I did.  In  
20   reality, each one is so separately greedy that they do  
21   not work together in terms of any coordinated efforts.  
22   They're all, you know, self-enriching.

23          Q.    And -- so can you tell us why you were  
24   concerned about that issue?

25          A.    I think I've testified that my concern is

1 A. -- at the time.

2 Q. I apologize.

3 Did you ever come to learn that she had worked  
4 for Mr. Kesner at his prior firm?

5 A. Again, at the -- her testimony a few weeks  
6 ago.

7 Q. All right. So let's talk about your Form 4  
8 filings.

9 A. Mmmm-hmmm.

10 Q. Did you ever deliver trading records to Joan  
11 Wu or anyone else at Sichenzia for the preparation of  
12 your May 31, 2016 Form 4?

13 A. Deliver trading records? I don't remember.

14 Q. What documents did you give Ms. Wu to fill out  
15 the Form 4?

16 A. I don't remember. I think just emails.

17 Q. You mean you just had email correspondence  
18 with her, is that what your recollection is?

19 A. Yes.

20 Q. Do you recall in any of those emails actually  
21 conveying to her records of your trading or other  
22 records in connection with your 2016 trading in MGT  
23 securities?

24 A. I don't remember.

25 Q. Can you name the investors in Laddcap Value

1       incorrectly, B-U-K-I-E-T, and that appears on 87850.

2           A.     Yes.

3           Q.     All right. And so if, in fact, I'm correct  
4       and there are no other indications of distributions in  
5       2016 for any of these investors, that would mean that in  
6       2016 Laddcap Value Partners did not make any  
7       distributions to any investors other than the two I've  
8       mentioned; is that right?

9           A.     Correct.

10          Q.     All right. So if we could look at Ladd  
11       Exhibit 16.

12          A.     Yes.

13          Q.     If you look at the last page of the exhibit,  
14       that's your Form 4 for May 31, 2016, correct?

15          A.     The last page? Yes.

16          Q.     All right. So can you explain how it is that  
17       Footnote 1 describes a distribution of 465,171 shares of  
18       MGT to limited partners that do not appear in the K-1s?

19          A.     So the only partners that demanded cash got  
20       paid those cash payments in 2016. It was subsequently  
21       paid out in future years, and they were not -- I think,  
22       as I've testified before, they were not distributed the  
23       shares in kind, but rather it was a mistake in the  
24       filing. They were sold by the --

25          Q.     All right.

1           A.    -- partnership, and the cash proceeds were  
2 held and then distributed over the ensuing years.

3           Q.    Okay. And so your understanding in filling  
4 out the K-1s is that the distributions should not be  
5 reflected until they're actually paid out; is that  
6 right?

7           A.    I -- that is how they are filled out, that  
8 they're taxable or otherwise change the basis of the  
9 person when they're paid out.

10          Q.    All right. So -- so the information that  
11 Ms. Wu included on Form 4 was all information that you  
12 provided her orally; isn't that right?

13          A.    Or in email. I don't recall.

14          Q.    But is it your recollection that you provided  
15 her no trading records or other documents in order for  
16 her to fill out the Form 4?

17          A.    Correct.

18          Q.    I'm sorry?

19          A.    Correct.

20          Q.    Thank you.

21                Now, you previously testified that Form 4's  
22 purpose was to disclose purchases and sales by  
23 Section 16 officers and directors in the sale of their  
24 security.

25                Do you recall that?

1 record.

2 (Off the record at 11:49 a.m. Back on the  
3 record at 12:00 p.m.)

4 --o0o--

5 CERTIFIED STENOGRAPHER: Back on the record.

6 BY MS. BROWN:

7 Q. Mr. Ladd, can you tell me whom Mr. Kesner was  
8 representing in the 2012 transaction with MGT?

9 A. I believe he was representing the investor  
10 group. The investors of the investors.

11 Q. Okay. And who was he representing in 2015?

12 A. I believe the investors.

13 Q. Okay.

14 MS. BROWN: All right. So I don't have any  
15 more questions today. I appreciate your time, Mr. Ladd.

16 Mr. Ford, do you have any questions you'd like  
17 to ask of the witness?

18 MR. FORD: I do. And I'm -- I guess, I'm  
19 prepared to go now.

20 EXAMINATION

21 BY MR. FORD:

22 Q. Good afternoon, Mr. Ladd. In this case, you  
23 haven't -- let me step back.

24 You've previously testified that you don't  
25 recall having certain conversations with Mr. Marcus and